IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA	)
	)
Plaintiff,	)
	)
v.	) No. 4:16CR163 RWS
	)
OSCAR STEINMETZ	)
	)
Defendant.	)

MOTION IN LIMINE

COMES NOW defendant OSCAR STEINMETZ, through his attorney, Lucille G. Liggett, Assistant Federal Public Defender, and moves this Court for an order prohibiting the Government from introducing into evidence the fact of Defendant's Missouri prior conviction for stealing property less than $500, a class A misdemeanor in Cause no. 14SL-CR8649-01 or inquiring on cross examination of the Defendant as to the fact of this prior conviction. In support thereof, Defendant states to the Court the following:

401 Relevancy

The fact of Steinmetz's misdemeanor conviction is not relevant to this case. If admitted, it would not make any fact of this case more or less probable than it would be without the fact of the prior conviction.

404(b)

The fact of Steinmetz's misdemeanor conviction is not admissible under Federal Rule of Evidence 404(b). If admitted, the fact of the prior conviction could be offered only as propensity evidence, that is, that Steinmetz acted in accordance with a particular character trait. The fact of the prior conviction is not admissible for any other purpose, that is, it is not admissible to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or lack of accident.

Rule 609 Impeachment by Evidence of a Criminal Conviction

Rule 609 provides: (1) for a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment **for more than one year**, the evidence …..(B) must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant; and (2) for any crime regardless of punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime require proving – or the witness's admitting – a dishonest act or false statement.: Fed. R. Evid. 609(a).

The prior conviction is a Missouri class A misdemeanor conviction for theft or property less than a value of $500. The date of the offense is June 5, 2004. The range of punishment in Missouri for a class A misdemeanor is one day to one year (Section 570.030 R. S. Mo. and Section 558.011 R. S. Mo.) Therefore, the fact of the prior conviction is not admissible under Rule 609(a)(1) as the offense was not punishable by imprisonment for more than one year.

Further, the prior conviction is not admissible under Rule 609(a)(2) as it can not be readily determined that establishing the elements of the crime required proving or the defendant admitting to a dishonest act or false statement.

403 Balancing

The probative value of the fact of a prior conviction, if admitted or if the Government were permitted to cross examine Steinmetz about it at trial, would be substantially outweighed by the prejudicial effect at trial.

WHEREFORE, for the foregoing reasons, Defendant requests this Court enter its order in limine as requested.

Respectfully submitted,

/s/Lucille G. Liggett
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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2017, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon Rob Livergood, Assistant United States Attorney.

/s/Lucille G. Liggett
LUCILLE G. LIGGETT
Assistant Federal Public Defender